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Foss Maritime Company

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLYDE WYLIE, on behalf of himself  
and all others similarly situated,

Plaintiff,

vs.

FOSS MARITIME COMPANY, a  
Washington corporation, and DOES 1-  
25, inclusive,

Defendants.

Case No. C06-7228 MJJ

**CLASS ACTION**

**STIPULATION AND PROPOSED ORDER  
REGARDING FILING OF SECOND  
AMENDED CLASS ACTION  
COMPLAINT AND ANSWER THERETO**

**[FRCP RULE 15(a)]**

1  
2 Individual and Representative Plaintiff Clyde Wylie on behalf of himself and all  
3 others similarly situated ("Plaintiff") and Defendant Foss Maritime Company ("Foss")  
4 hereby submit their Stipulation and Proposed Order Regarding Filing of Second Amended  
5 Class Action Complaint and Answer thereto as follows:

6 **RECITALS**

7 On August 25, 2006, Plaintiff filed this action against Foss in the Contra Costa  
8 Superior Court (*Wylie v. Foss Maritime Company*, Case No. C06-01685) ("the State Court  
9 Action");

10 On or about October 20, 2006, Plaintiff filed his First Amended Complaint in the  
11 State Court Action and the summons and First Amended Complaint were thereafter served  
12 on Foss on or about October 23, 2006;

13 On or about November 20, 2006, Foss filed its Response to the First Amended  
14 Complaint in the State Court Action;

15 On or about November 22, 2006 Foss filed its Notice of Removal in this Court  
16 which removed the State Court Action to federal court pursuant to the Class Action  
17 Fairness Act of 2005;

18 Plaintiff desires to file a Second Amended Class Action Complaint which adds  
19 three current and/or former employees of Foss as representative plaintiffs;

20 Defendant Foss is willing to consent to the filing of Plaintiff's Second Amended  
21 Complaint provided that its Response to the First Amended Complaint, that generally  
22 denies the allegations of the First Amended Complaint and raises affirmative defenses,  
23 will be considered its answer to the Second Amended Complaint.

24 **STIPULATION**

25 Accordingly, Plaintiff and Defendant Foss hereby stipulate and agree, by and  
26 through their respective counsel of record herein, pursuant to Rule 15(a) of the Federal  
27 Rules of Civil Procedure that the Court be respectfully requested to order that:

- 28 1) Plaintiffs' Second Amended Complaint attached herewith be filed; and

2) Defendant Foss' Response to the First Amended Complaint be deemed  
its Answer to Plaintiffs' Second Amended Complaint. .

Dated: May 8, 2007

BANNING MICKLOW & BULL LLP

By: /S/ Kurt Micklow  
Kurt Micklow

Attorneys for the Plaintiffs  
and the Proposed Plaintiffs Class

I hereby attest that I have written authorization for any signatures indicted by a  
"conformed" signature (/S/) within this efiled document.

By: /s/ Kurt Micklow  
Kurt Micklow

Dated: May 8, 2007

SEYFARTH SHAW LLP

By: /S/ Robert W. Tollen  
Robert W. Tollen

Attorneys for Defendant  
Foss Maritime Company

**ORDER**

IT IS SO ORDERED.

Dated: 5/23/07

  
UNITED STATES DISTRICT JUDGE